

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBBIE D. BISPO,

05-CV-1223-PK

Plaintiff,

ORDER

v.

GSW, INC.; AMERICAN WATER HEATER
COMPANY dba US CRAFTMASTER; INVENSYS
PLC; MAPLE CHASE COMPANY dba INVENSYS
CLIMATE CONTROLS AMERICA and dba
ROBERTSHAW INDUSTRIAL PRODUCTS;
ROBERTSHAW CONTROLS COMPANY dba
INVENSYS APPLIANCE CONTROLS and dba
INVENSYS CONTROLS; LOWE'S HIW, INC.;
BLUE STAR GAS SERVICE dba BLUE STAR
GAS SERVICE LTD.; BLUE STAR GAS CO.;
CHEVRON U.S.A., INC.; and FIRST DOE
through TWENTIETH DOE, inclusive,

Defendants.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#145) on May 25, 2007, in which he recommended the Court grant Defendant Chevron U.S.A., Inc.'s Motion for Summary Judgment (#120) and deny Plaintiff's request to amend his Complaint to allege Stage Stop III service station was an apparent agent of Chevron. Plaintiff Robbie D. Bispo filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

This Court has carefully considered Plaintiff's Objections in which he asserts he submitted sufficient materials to create a genuine issue of material fact as to whether Chevron held out Stage Stop III as "its own" and, therefore, potentially created an apparent agency. The Court, however, concludes Plaintiff's Objections do not provide a basis to modify the Findings and Recommendation pursuant to the law of apparent agency in Oregon.

This Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Papak's Findings and Recommendation (#145). Accordingly, the Court **GRANTS** Defendant Chevron's Motion for Summary Judgment (#120) and **DENIES** Plaintiff's request to amend his Complaint.

IT IS SO ORDERED.

DATED this 9th day of July, 2007.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge